



Judicial Council of California

Administrative Office of the Courts

Trial Court Financial Policies and Procedures

Policy No.
Page

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ESCHEAT

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Not Applicable

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Escheat

(Original 9/10)

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2.0 Purpose

The purpose of this policy is to establish uniform guidelines for the trial courts to use in escheating unclaimed civil funds and funds covered by uncashed court checks that become stale.¹ Neither this policy nor its adoption is intended to suggest that any other escheatment procedures used by the trial courts in the past were improper, unreasonable, or noncompliant with legal requirements.

3.0 Policy Statement

A trial court may escheat to itself (a) any civil money that has been deposited with it or that it is holding in trust for the lawful owner and (b) any money covered by a check that the court issued (e.g., to a vendor, juror, or employee), if the money remains unclaimed or the check remains un-

¹ This policy does not apply to unclaimed money deposited with or held by a court in connection with a criminal proceeding, as specific statutory provisions generally apply in such circumstances. (e.g., PC §§ 1411, 1417.5, 1420, 1463.006.)

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cashed for three years, no law requires a different distribution,² and the trial court complies with all the requirements specified in this policy.³

4.0 Application

This policy applies to all trial courts, their officers and employees, and AOC staff who support the trial courts.

5.0 Definitions

Refer to the Glossary for the following key term used in this policy.

Escheat(s), Escheating or Escheatment

6.0 Text

6.1 General Guidelines

1. A trial court may escheat to itself (a) any unclaimed money related to a civil matter that is on deposit with or held by the court or is held by a county on a court's behalf and (b) any money covered by an uncashed court check that has become stale (e.g., a check made out to a vendor, juror, or employee) if no law requires a different distribution of the money and all of the following are true:

² e.g., Code Civ. Proc., § 631.3 (unclaimed civil jury fee deposits "shall be transmitted to the Controller for deposit into the Trial Court Trust Fund"). This policy does not apply to money that a trial court receives as payment of a fee, fine, or forfeiture.

³ Government Code (GC) 68084.1, authorizing trial courts to escheat unclaimed money in specified circumstances. Please note GC 68084.1 specifically precludes courts from escheating victim restitution money.

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- a. The money remains unclaimed—or the check remains uncashed—for at least three years after the associated case is closed, the money first becomes eligible for distribution, or the court issues the check;
 - b. No other public entity previously completed an escheat procedure with respect to the money;
 - c. The court has contacted, or attempted to contact, the lawful owner of the money (e.g., the person or entity to whom the court issued a check) and has documented those efforts; and
 - d. The court properly publishes notice of the planned escheatment in a newspaper of general circulation, as described below.⁴
2. A court may escheat unclaimed civil money under this policy, if all other requirements are met, even if the money originally was deposited with or came to be held by the court or held by a county on a court's behalf, before January 1, 1998.
 3. If a court completed a different escheat procedure⁵ with respect to a sum of money before January 1, 2006, and that money has not been transferred to the trial court's general fund or otherwise disposed of, the court **must** follow the requirements specified in this policy to bring the escheat under the authority of Government Code Section 68084.1.

⁴ GC 68084.1

⁵ e.g., GC section 50050 et seq. (the local agency escheat procedure).

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4. The notice must state the amount of money, the fund in which it is held, the name of the lawful owner (if it is known), and that it is proposed that the money will become the property of the court pursuant to Government Code section 68084.1 on a designated date not less than 45 calendar days or more than 60 calendar days after the first publication of the notice.

6.2 Published Notice Requirements

1. At any time after the expiration of the required three-year period, the executive officer of the trial court may publish notice of a planned escheat.
2. The notice must be published once a week for two successive weeks in a newspaper of general circulation that is published in the county in which the court is located.⁶
3. To be considered a newspaper of general circulation for purposes of this procedure, a newspaper must obtain or have obtained a judicial decree establishing it as having that status.⁷
4. The notice must state the amount of money, the fund in which it is held, and that it is proposed that the money will become the property of the court pursuant to Government Code section 68084.1 on a designated date not less than 45 calendar days or more than 60 calendar days after the first publication of the notice. Additionally, if possible, the notice should provide sufficient detail for a potential claimant to identify their monies.

⁶ GC, §§ 6000, 6008.

⁷ GC § 6027; see *id.*, §§ 6020–6026.

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6.3 Claims

1. Before or after publication of the above notice, a party of interest may file a claim with the executive officer of the trial court. Any such claim must include:
 - a. The claimant's name,
 - b. The claimant's address,
 - c. The amount of the claim,
 - d. The grounds on which the claim is founded, and
 - e. Any other information that may be required by the executive officer of the trial court.
2. The claim must be filed before the designated date on which unclaimed money becomes the property of the court as provided in Sub-section 6.2.4.
3. The executive officer of the trial court must accept or reject the claim.
4. If the executive officer of the trial court rejects the claim, or takes no action on the claim within 30 calendar days after it is filed, the party that submitted the claim may file a verified complaint seeking to recover all, or a specified part, of the money. The verified complaint must be filed in the court in the county in which the notice is published. (If the party that submitted the claim does not file a verified complaint within 30 calendar days after the date that the court mailed notice that the claim was rejected or within 60 calendar days after the claim was filed, the money shall become the property of the court.)
5. If a party files a verified complaint, the party must serve a copy of the complaint and summons on the executive officer of the trial court.

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6. The executive officer of the trial court must not release the amount of unclaimed money for which a court action has been filed until the court renders a decision or the action is settled.
7. Regardless of whether a claim or verified complaint is filed, the executive officer of the trial court may release the unclaimed money to the depositor of the unclaimed money, or the depositor's heir, beneficiary, or duly appointed representative, if the depositor or the depositor's heir, beneficiary, or duly appointed representative claims the money before the date that the money becomes the property of the trial court, upon submitting proof satisfactory to the executive officer.
8. If the executive officer releases the unclaimed money to a claimant or to the depositor or the depositor's heir, beneficiary, or duly appointed representative, the executive officer also must release any interest that has accrued on the unclaimed money during the period that the money was on deposit with or held by the court.
9. If no claim is filed as specified in Sub-section 6.1.1, Item b, and the time for filing claims has expired, the money shall become the property of the court. If a claim or claims are filed with respect to a portion of the money, but not the remainder of the money, and the time for filing claims has expired, the remainder of the money shall become the property of the court.

6.3.1 Amounts Automatically Transferred to Revenue

Notwithstanding any other provision of this policy, the presiding judge may direct the transfer of any individual deposit of twenty dollars (\$20) or less, or any amount if the name of the original depositor is unknown, that remains unclaimed for one year to the Trial Court

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Operations Fund without the need for publication of notice.⁸ The presiding judge's direction must be in writing and accompanied by attachments supporting that (1) the amount in each instance is \$20 or less or the name of the original depositor is unknown and (2) the money has remained unclaimed for one year since the associated case was closed or the money became eligible for distribution .

Amounts transferred must be accounted for and reported as miscellaneous revenue.

6.3.2 Delegation of Responsibilities

The executive officer of the trial court may delegate the responsibilities stated in GC section 68084.1 to appropriate trial court staff. This delegation must be in writing and signed by the executive officer of the trial court.

6.3.3 Transfer to Trial Court Operations Fund – General Fund

When any money deposited and held under this section becomes the property of a trial court, the presiding judge **must** direct in writing that it be transferred to, or accounted for in, the Trial Court Operations Fund – General Fund as miscellaneous revenue.

6.3.4 Record Retention

1. Documentation supporting all of the trial court's actions concerning the escheat of monies **must** be retained in files until the latter of four years or the next AOC internal audit of the court.
Documentation must include as applicable:

⁸ GC § 68084.1(g).

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- a. Records confirming that any associated case was closed or the money otherwise became eligible for distribution and the date on which the distribution occurred.
- b. A signed memorandum from the CEO certifying that the court received no claims to the money during the three years after the associated case was closed or the money otherwise became eligible for distribution. Alternatively, if the money to be escheated is covered by a check, the memorandum from the CEO must certify that the check remained un-cashed for three years after it was issued and that the court received no claims for the payment tendered by the check during that period.
- c. Material (e.g., letters, envelopes with post office stamps confirming “return to sender,” telephone notes, etc.) reflecting the court’s efforts to contact the lawful owner before escheating the money.
- d. For each day on which the court published notice of the proposed escheat, copies of the first page and the page bearing the notice from the newspaper of general circulation in which the notice was published or a Proof of Publication issued by the newspaper with a copy of the notice as published and attesting to the dates it was published.
- e. If the court received no claim to the money following publication of notice of the proposed escheat, a signed memorandum from the CEO certifying that fact.
- f. If the court received a claim following publication of notice of the proposed escheat, copies of: the claim; the court’s written response to the claimant; and, if the court made any payment on or connected to the claim, documentation of the payment.

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- g. If a claimant filed a verified complaint, copies of the complaint and summons; all court rulings or orders disposing of the complaint; and, if the court made any payment on or connected to the complaint, documentation of the payment.
- h. Any other documentation necessary to support the actions that the court took in connection with the escheat unclaimed funds under GC 68084.1.

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7.0 Associated Documents

Sample Notice of Unclaimed Funds—Action Required to Claim Funds

Sample Instructions for Filing an Escheat Claim

Sample Claim Affirmation Form

Sample Claim for Reimbursement

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Sample Notice of Unclaimed Funds—Action Required to Claim Funds

[Court Letterhead]

[Date]

[Name]

[Address]

Subject: Notice of Unclaimed Funds—Action Required to Claim Funds

Dear [Name]:

This letter is to inform you that the Superior Court of California, County of _____ has been holding the sum of \$_____ for you since [insert date] in its _____ [insert name of fund] fund. The money initially [choose one: (1) (was deposited with the court in connection with the following civil case: [insert case name and number]) or (2) (was issued to you in the form of a check [choose one: (1) “to reimburse you for (insert jury or specified vendor) services that you provided on (insert date)” or (2) “as compensation to you for the final period of your employment, from (insert date) to (insert date)”].

Under Government Code section 68084.1, money “that remains unclaimed for three years shall become the property of the superior court” if it is not claimed within 60 days after the court publishes notice in a local newspaper of general circulation. The court will publish notice in [insert name of qualifying local newspaper] that the above sum of money remains unclaimed on [insert date].

If you would like to claim the money, please complete the enclosed form and mail it to the court’s executive officer, [insert name], at [insert address] by no later than [specify date 60 days after the planned notice is to appear in the local newspaper]. Please attach a copy of this letter to your completed claim form when you submit it. (If you do not think that you are the proper owner, please explain why and give us the name and address of the person or entity who you believe is the proper owner.)

Thank you for your assistance in this matter.

Sincerely,

[Name]

[Title]

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Sample Unclaimed Funds Form—Action Required to Claim Funds

**Superior Court of California,
County of _____**

ESCHEATMENT CLAIM INSTRUCTIONS and FORMS

If you are claiming funds, please complete the following:

STEP 1: Fill out the attached forms (**Claim Affirmation Form** and **Claim For Reimbursement**). When completing the claim forms, please type or print legibly in blue or black ink. Claims that are illegible will be returned. Claims must be made using the court's forms. Any modifications made to the court's forms will not be accepted.

STEP 2: You must sign the Claim Affirmation Form and have it notarized if your claim is over \$1,000 or your claim will not be processed. Please read all of the instructions and make copies of all required documents (driver's license, etc.). Owners or heirs are required to provide documentation to validate their claims.

STEP 3: Each claimant is required to fill out a separate Claim Affirmation Form and Claim For Reimbursement.

STEP 4: Please send the completed forms along with all the required materials to:

Superior Court of California, County of _____
Court's address

For additional questions, please call () - .

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SECTION A-ORIGINAL OWNER FILING CLAIM

The following is a checklist of the documentation required when sending in your claim:

- Completed and signed Claim of Affirmation Form;
- Notarize your Claim of Affirmation Form, if your claim is over \$1000;
- Complete the information located above the “Holder’s Use Only” box on the Claim for Reimbursement;
- Copy of current photo identification for each claimant;
- Proof of Social Security number for each claimant;
- Proof associating you with the last known address;
- Proof associating you to the Court and the reported case; and
- The original instrument used such as a receipt, copy of check, etc.

SECTION B-DECEASED OWNER

The following is a checklist of the documentation required when sending in your claim:

- Completed and signed Claim Affirmation Form;
- Notarize your Claim Affirmation Form, if your claim is over \$1000;
- Complete the information located above the “Holder’s Use Only” box on the Claim for Reimbursement;
- Death certificate of the deceased owner(s) of the funds;
- Copy of current photo identification for each heir;
- Proof of Social Security number for each heir;
- Proof associating the deceased owner to the Court and the reported case;
- The original instrument used such as a receipt, copy of check, etc.;
- Proof associating the deceased owner with the last known address; and
- If probate of estate is open, the estate tax identification number and a copy of Currently Certified Letters Testamentary, dated within 6 months, appointing the executor or administrator of decedent's estate.

OR

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If probate of the estate is closed, provide the estate tax identification number and a complete copy of the Court Ordered Distribution of the decedent's estate. **OR**

Provide a complete copy of the Trust Agreement and a copy of a document with the trust tax identification number, such as a tax return or a bank statement. **OR**

If none of the above information can be obtained, please contact the court at () - .

SECTION C-BUSINESS CLAIM

The following is a checklist of the documentation required when sending in your claim:

- Completed and signed Claim of Affirmation Form;
- Notarize your Claim of Affirmation Form, if your claim is over \$1000;
- Complete the information located above the "Holder's Use Only" box on the Claim for Reimbursement;
- Proof associating the business with the Court and the reported case;
- The original instrument used such as a receipt, copy of check, etc.;
- Letter of Authorization with the names of officers or officials with authority to sign and claim on behalf of the business;
- Copy of current photo identification for each authorized officer or official;
- Business card of the authorized officer or official;
- Proof of the business's federal tax identification number;
- Proof of the business's association with the last known address;
- If your company merged with another company, a copy of the merger agreement;
- If your company was dissolved, a copy of the articles of dissolution;
- If your company was suspended, a Tax Clearance letter or a Letter of Good Standing from the Franchise Tax Board and/or the Secretary of State's Office.

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CLAIM AFFIRMATION FORM

The undersigned claimants certifies, under penalty of perjury, the claimant has read the claim and knows the contents thereof and the claimant is the owner of the said claim and the person entitled to receive the money set forth in said claim.

The claimant agrees to indemnify and hold harmless the State, the Courts and its agents, officers, and employees from any loss resulting from the payment of said claims.

CURRENT INFORMATION AND SIGNATURE MUST BE PROVIDED FOR EACH CLAIMANT OR YOUR CLAIM WILL NOT BE PROCESSED

Claimant's Information:

LAST NAME OR BUSINESS	FIRST NAME	MIDDLE INIT.	SSN or FEDERAL TAX ID		DATE
CURRENT MAILING ADDRESS		CITY	STATE/PROVINCE	ZIP	COUNTRY
DAYTIME PHONE	CLAIMANT OR AUTHORIZED AGENT SIGNATURE				

YOUR SIGNATURE MUST BE NOTARIZED IF THE CLAIM AMOUNT IS \$1,000 OR GREATER

For claims filed for a business, the authorized owner's signature is required. For claims filed for an estate or trust, the signature of the executor, administrator or attorney is required.

State of California

County of _____

Subscribed and sworn to (or affirmed) before me on this ____ day of _____,
20____, by _____, proved to me on the basis of satisfactory
evidence to be the person(s) who appeared before me.

Signature_____ (Seal)

PRIVACY NOTIFICATION

Your Social Security number and other documents are requested for identification and processing of your claim.

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CLAIM FOR REIMBURSEMENT

MAIL TO: Superior Court of California, County of _____
Court Address

TODAY'S DATE: _____

OWNER'S NAME: _____

STREET ADDRESS: _____

CITY, STATE, ZIP CODE: _____

REIMBURSEMENT CLAIM: \$ _____

NAME OF THE PERSON FILLING OUT THIS FORM AND YOUR RELATIONSHIP TO THE OWNER:

HOLDER'S USE ONLY

Warrants were paid to the holder shown below:

Superior Court of California, County of _____
Court Address

Tax Identification Number: _____

Reason for claimed reimbursement:

**A SEPARATE FORM IS REQUIRED FOR EACH ACCOUNT FOR WHICH
REIMBURSEMENT IF CLAIMED.**

AFFIRMATION AND SIGNATURE (*by court employee*)

I hereby affirm, under penalty of perjury, that I am an authorized agent of the holder named in this Claim for Reimbursement and duly authorized to make said claim upon the Superior Court of California, County of _____. The above-named holder hereby agrees to indemnify and hold harmless the State, the Courts, its officers and employees from any loss as a result of payment of the amount claimed.

Signature: _____ Date: _____